Supreme Court, U.S.
FILED
AUG 10 2000
CLERK

(2)

No. 00-51

IN THE

Supreme Court of the United States

SHARON HUGHES MENDONCA,

Petitioner,

v.

AMY O'BRIEN WINTERSEN,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

RESPONDENT'S BRIEF IN OPPOSITION

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STATEMENT OF JURISDICTION

It is the Respondent's position that this Court does not have jurisdiction to hear any matter raised by the Petition, and as such, the Respondent objects to the Petition for Writ of Certiorari.

The Petition is unintelligible and does not properly set forth a basis for jurisdiction in this Court.

STATEMENT OF THE CASE

The Respondent disagrees with the Petitioner's Statement of the Case and further objects to any argument contained in this section. The Respondent objects to the documents contained in the Appendix as they contain errors, are not complete or relate to matters not included in the case filed by the Petitioner in the United States District Court.

This is a motor vehicle tort case arising from a motor vehicle accident that occurred on April 17, 1994 between the Petitioner and the Respondent. The Petitioner brought suit in the State District Court on August 1, 1994 alleging that the Respondent was negligent and that she was injured as a result. The Respondent's position was that the Petitioner did not receive any injuries in the accident. The case was tried on January 14, 1997 before the Honorable Jonathan Brandt. On January 15, 1997 the Court entered judgment for the Petitioner but in the amount of zero dollars. The Petitioner's attorney transferred the case to the Middlesex Superior Court in the state court system for a jury trial. On December 5, 1997 the case was tried by a jury before the Honorable Margot Botsford. The jury found for the plaintiff but assessed zero damages.

After appealing through the State Court Appeal process, the Petitioner filed an unintelligible complaint in the United States District Court. The United States District Court dismissed the case for lack of diversity jurisdiction. (Appendix A). The Petitioner appealed to the United States Court of Appeals for the First Circuit and the lower court decision was affirmed. (Appendix B). The Court pointed out that the lower court also lacked subject matter jurisdiction under the *Rooker-Feldman* doctrine. *See District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-416 (1923).

REASON FOR DENYING THE WRIT

I.

NEITHER THE RECORD NOR THE DECISION BELOW RAISE THE QUESTION PRESENTED BY THE PETITION

The sole question presented in the Petition deals with post-judgment relief pursuant to Federal Rule of Civil Procedure 60(b)(6). That rule is not mentioned in the record below and was not considered by the First Circuit. Further Section I of her argument concerning impartiality raises issues never set forth in the record below and never considered by the First Circuit.

II.

THE FEDERAL COURTS DID NOT ERR IN DISMISSING THE PETITIONER'S COMPLAINT

The United States District Court never had jurisdiction over the complaint filed by the Petitioner. "A United States District Court has no authority to review final judgments of a State Court in judicial proceedings." *See District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-416 (1923). The decision of the First Circuit was correct.

III.

THE PETITION DOES NOT ARTICULATE ANY REASON TO ALLOW THE COURT TO GRANT THE PETITION

The issues set forth by the petitioner, to the extent that they are able to be understood, do not raise any matter showing that the decision of the First Circuit Court of Appeals conflicts with another United States Court of Appeals on the same issues or that the decision of the First Circuit departed from accepted and usual course of judicial proceedings. Rule 10 of the Rules of the Supreme Court of the United States. The Petitioner is apparently seeking the United States Supreme Court to review a judgment which has already been decided by the State Courts because she was dissatisfied with the result. This is not the function of this Court and the Petition should be denied.

CONCLUSION

For all of the foregoing reasons, Respondent respectfully requests that this Honorable Court deny the Petition.

Respectfully submitted,

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APPENDIX

APPENDIX A — ORDER OF DISMISSAL OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS DATED JULY 27, 1999

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.:
99-11408-EFH

SHARON MENDONCA,

Plaintiff

v.

AMY O'BRIEN WINTERSEN,

Defendant.

ORDER OF DISMISSAL

July 27, 1999

HARRINGTON, D.J.

Upon a review of the record in this case, the Court *sua sponte* dismisses plaintiff's complaint for product liability on the ground that the Court lacks jurisdiction over the cause of action, in that both the plaintiff and the defendant are residents of the Commonwealth of Massachusetts.

SO ORDERED.

s/ Edward F. Harrington
EDWARD F. HARRINGTON
United States District Judge

APPENDIX B — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT DATED DECEMBER 27, 1999

UNITED STATES COURT OF APPEALS
For the First Circuit

No. 99-1905

SHARON HUGHES MENDONCA,

Plaintiff, Appellant,

v.

AMY O'BRIEN WINTERSEN,

Defendant, Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Edward F. Harrington, *U.S. District Judge*]

Before

Selya, *Circuit Judge*,
Cyr, *Senior Circuit Judge*,
and Lipez, *Circuit Judge*.

Sharon Hughes Mendonca on brief pro se.
Robin Aaronson Maher and *Segalini & Neville* on brief for appellee.

December 27, 1999

Appendix B

Per Curiam. After a thorough review of the record and the submissions of the parties, we affirm for the reason stated by the district court in its Order dated July 27, 1999. Furthermore, the district court also lacked subject matter jurisdiction under the *Rooker-Feldman* doctrine. *See District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476 (1983) ("[A] United States District Court has no authority to review final judgments of a state court in judicial proceedings."); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923) (same).

Affirmed. 1st Cir. Loc. R. 27(c).